

REMARKS

The present application was filed on September 25, 2003 with claims 1 through 25. Claims 1 through 25 are presently pending in the above-identified patent application. Claims 1, 11, and 21 are proposed to be amended herein.

5 In the Office Action, the Examiner rejected claims 1-25 under 35 U.S.C. §102(b) as being anticipated by Johnson et al. (European Patent Number EP 1 096 729 A1; hereinafter Johnson).

The specification has been amended to correct a typographical error.

Independent Claims 1, 11 and 21

10 Independent claims 1, 11, and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by Johnson. Regarding claims 1 and 11, the Examiner asserts that Johnson teaches a rate fallback mechanism (FIG. 2; paragraph [0024]) that reduces a retransmission rate only for a current frame (step 406 in FIG. 4; paragraph [0028]; col. 10, lines 5-6) when an acknowledgement is not received for said current frame (step 405 in FIG. 4; paragraph [0028];
15 col. 9, line 58, to col. 10, line 1).

Applicants note that Johnson teaches that the transmission rate of a data packet is reduced from a "higher data rate" to a "lower data rate." Johnson does *not*, however, disclose or suggest that the reduced retransmission rate is *progressively selected from a group of more than one transmission rate*. Independent claims 1, 11, and 21 have been amended to require wherein
20 said reduced retransmission rate is progressively selected from a group of more than one transmission rate. Support for this amendment can be found on page 2, lines 21-22, and page 3, lines 3-13, of the originally filed disclosure.

Thus, Johnson does not disclose or suggest wherein said reduced retransmission rate is progressively selected from a group of more than one transmission rate, as required by
25 independent claims 1, 11, and 21, as amended.

Dependent Claims 2-10, 12-20 and 22-25

Dependent claims 2-10, 12-20, and 22-25 were rejected under 35 U.S.C. §102(b) as being anticipated by Johnson.


Claims 2-10, 12-20, and 22-25 are dependent on claims 1, 11, and 21, respectively, and are therefore patentably distinguished over Johnson because of their dependency from amended independent claims 1, 11, and 21 for the reasons set forth above, as well as other elements these claims add in combination to their base claim

5 All of the pending claims, i.e., claims 1-25, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below

10 The Examiner's attention to this matter is appreciated.

Respectfully submitted,



Date: September 24, 2007

Kevin M. Mason
Attorney for Applicants
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560